IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 20594 of 2004

Between:

T.V.Ramana Murthy,

S/o.Suryanarayana Murthy,
Aged 46 years, Person-in-charge cum Chairman,

Tekkali PACS, Srikakulam District.

..... PETITIONER

AND

1. The Deputy Registrar of Co-op.Societies Tekkali,

District Co-op office, Srikakulam.
2 The Divisional Co-op officer -cum--incharge, Tekkali,

Srikakulam District.
3 The District Co-op officer, Srikakulam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly a writ in the nature of mandamus under Article 226 of Constitution of India, not even completing the exercise of the fixing pay scales of the employees, which is the subject matter of W.A.32/2003 by issuing proceeding vide Rc.No.2052/2002-B, dt.31-1-2003 and proc.Rc.No.2052/2004-C,
dt.22-7-2004 issued by the 1st & 2nd respondents ordered recovery of Rs.40,823/-

jointly against petitioners society and employees and severally with interest @ 10% P.A. from 29-4-2001 by violating this Honourable Court Judgment as illegal, improper and arbitrary is hereby set aside.

Counsel for the Petitioner: SMT.AKELLA PADMA

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following:

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ORDER:

Challenging the proceedings dated 31-01-2003 and 22-07-2004, the present writ petition has been filed.

The petitioner is Person-In-Charge-cum Chairman of Tekkali Primary Agricultural Cooperative Society. P.Kasi Babu and M.Nagesh Kumar, who are working as paid secretaries of the Society, filed applications for grant of surrender leave for certain period. The said applications were placed before the Board meeting and by a resolution dated 29-04-2001, the petitioner-society accorded permission to the said employees for withdrawal of certain amount towards surrender of earned leave. Thereafter, the first respondent issued proceedings dated 06-01-2003, calling upon the individuals, including the petitioner, to submit their explanation as to the payment of irregularly drawn amount towards surrender leave. The individuals submitted a detailed explanation on 31-03-2003. Subsequently, the first respondent issued proceedings dated 31-01-2003, holding the petitioner and others jointly and severally liable for an amount of Rs.40,823/ along with interest. The petitioner neither gave any explanation nor attended the meeting. Hence, the present writ petition.

As seen from the impugned proceedings dated
31-01-2003, it is alleged that an amount of Rs.18,110/- was irregularly drawn in excess towards surrender leave in respect of Kasi Babu and Nagesh Kumar, though they were not eligible. The said employees filed joint written statement dated 31-01-2003, admitting the fact of receiving the surrender leave amount in excess of their eligibility and requested to accord permission to repay the same in installments. The impugned order was passed directing all the persons including the present petitioner to pay the amount jointly and severally along with interest at 10% per annum from 29-04-2001. The impugned order does not show in what manner the person-in-charge was responsible for withdrawal of surrender leave amount in respect of Kasi Babu and Nagesh Kumar.

It has to be seen that when the said employees claimed certain amount towards surrender leave, the matter has been placed before the board meeting, which in turn has accepted the request of the said employees and passed a resolution dated 29-04-2001. Even assuming for a moment that the board has passed the resolution illegally, still
Kasi Babu and Nagesh Kumar are ready to pay that amount with interest. The respondents ought not to have passed the impugned proceedings holding the petitioner and the secretaries jointly and severally liable, when admittedly are ready to pay that amount. So, in the absence of any connivance of the present petitioner for withdrawal of certain amounts towards surrender leave, the question of joint liability does not arise. Therefore, the impugned order, inasmuch as directing the petitioner to pay the amount jointly and severally, is set aside.

The writ petition is accordingly allowed. No costs.

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28-02-2005.

Lrkm.

To

1. The Deputy Registrar of Co-op.Societies Tekkali,

District Co-op office, Srikakulam.
2. The Divisional Co-op officer -cum--incharge, Tekkali,

Srikakulam District.
3. The District Co-op officer, Srikakulam.

4. 2 CCs to the Government Pleader for Cooperation, High

Court Buildings, High Court of A.P., Hyderabad (O.U.T).

5. 2 CD copies.